



## Tilburg University

### Libraries, publishers and licenses

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## **LIBRARIES, PUBLISHERS AND LICENSES**

*Hans Geleijnse*

# Libraries, Publishers and Licensing Principles

*Hans Geleijnse*

## ABSTRACT

The relationship between libraries and publishers will change in the digital world. The question is whether the promises of the digital library with respect to the access to and the cost of information can be realized. Experiences, especially at Tilburg University, with electronic files and the pros and cons of various types of license agreements are being discussed. The paper emphasizes the need for cooperation between libraries worldwide and presents the most important elements of the statement of the International Coalition of Library Consortia with respect to the access of electronic journals and license agreements. A breakthrough seems to be possible with respect to interlibrary loans in the electronic environment. In the current transition period experiments between libraries and publishers are needed. Libraries are encouraged to adapt a well-considered strategy, both with respect to licenses, conditions and prices of journals, and with respect to the support of electronic publishing by researchers and the copyright issue.

## INTRODUCTION

The most important element of the concept of the digital library is the content. Libraries all over the world are engaged in creating content, digitizing materials, providing access to Internet resources and in making license agreements with information providers in order to obtain the right to provide access to books and journals in electronic form.

When the first digital library programmes were developed and published in the eighties, the expectation was that the digital library could solve a lot of the problems libraries were facing in the printed environment. Access could be provided to extensive information sources that would no longer necessarily be stored in the local library. Access would become more important than ownership and would be possible at any time and at any place. The digital library also promised to play an important role in solving the "journals crisis". As we all know, the libraries are facing the situation in which

- the number of journal publications is increasing
- the library can only subscribe to a limited number of journals, which requires a professional and national/international system of Interlibrary Loan and document delivery
- there is a structural price increase of scholarly journals of about 10% a year due to cancellations of journal titles, extension of the volumes and, last but not least, profit maximization by the major publishers.

The expectation was that the concept of the digital library and the Internet would offer an opportunity

- to provide efficient end-user access to scientific work, and
- to find more cost effective solutions for access to journals.

The question is whether this expectation can come true and what libraries are actually doing to find these “cost effective solutions”.

## **CHANGING ROLE FOR PUBLISHERS**

The electronic environment and especially the Internet is bringing about important changes in the publication of scholarly journals:

- distribution is becoming less important
- research results can be published electronically
- the latest research in various disciplines can already be found on the web and not (yet) in printed publications

These developments will alter the role of publishers in the publication process, but basically the most important tasks still seem to remain:

- the selection of information
- the organisation of quality control.

These aspects create the standard of the journal in which researchers all over the world want to be published. The prestige of these individuals rather than the dissemination of information or the promotion of scientific communication is the driving force preserving the role of the journals and their publishers.

## **RELATIONSHIP BETWEEN UNIVERSITIES AND PUBLISHERS**

The relationship between universities and publishers is currently becoming a real topic at seminars, conferences and in various university committees. The journals crisis, the constant “regular” price increases of journals, the extra charges for electronic files of journals are being discussed. The discussion also includes the big issues such as the future of the information chain and the role of publishers in this process: the traditional role of the publisher with respect to selecting, reviewing and editing is being questioned. Important arguments in these discussions are that

- academic research is usually funded by the university (public funding)
- copyright of the output of this research is transferred, in general for free, to the publishers



- universities/libraries have to buy back this output from the publishers for a great deal of money.

These concerns, which express a dissatisfaction with the current situation of journals publishing, were articulated in a very clear way at a meeting in December 1997 at Purdue University, where the President of Elsevier US met with the President of the University and members of the faculty. The faculty gave an important message to the publisher:

- "The symbiotic relationship which faculty have had with commercial publishers is breaking down due to the pricing policy of publishers."
- "Commercial publishers seem to have forgotten that they do not produce the content which is sold and the content producers can choose to go elsewhere."
- "The next time serials were cut, it would be Elsevier titles because publications from scholarly/scientific society publishers would be protected."

## CHANGES IN THE PUBLISHING INDUSTRY

In general the current situation in the publishing industry with respect to the move from the printed to the electronic medium is quite diverse:

- The big publishers are currently going electronic. They are gradually changing their production process and building electronic warehouses. They negotiate license agreements with individual libraries, with library consortia and with intermediaries. They either provide direct access to their electronic files or offer copies of their files for local storage or storage at a host organisation
- For a long time, the smaller and medium-sized publishers were reluctant to do the same. Some do not have the means to invest in new technologies, others have not yet decided on the strategy they should follow or they simply did not have any strategy. It is interesting to see that various host organisations and subscription agents such as Ebsco and Swets are now looking for ways to act as an intermediary between a significant number of big, medium-sized and smaller publishers and libraries. This certainly could be a way for smaller publishers to survive, but I am afraid we will see that a number of these smaller publishing houses will not be able to compete effectively in the digital environment. The Internet can, on the other hand, provide opportunities for newcomers in the market.
- Various smaller publishers with a number of highly esteemed titles will be taken over by the big ones. What we have seen in previous years will continue in the next five to ten years. Libraries do not expect that the outcome of this development will necessarily be a positive one.

- All publishers are very keen to maintain the current situation of subscriptions and guaranteed turnovers as long as possible.

With respect to the electronic content of what publishers provide to libraries it must be stressed that the quality of the files is gradually improving. Many publishers who started to deliver Tiff images of their printed journals can now deliver files in converted PDF. Some are now delivering the currently preferred real PDF. It is clear that this will certainly not be the end of the “document format”. Only a few publishers managed to change their production line in such a way that the electronic files can be delivered at the same time as or prior to the printed journals. Unfortunately, libraries still have to deal with a time span between the arrival of the printed journal in the library and the availability of the electronic texts. It is obvious that this time span is an important impediment for the use of the files.

I expect that this will change within a year. There will have to be significant new innovations. Currently we are still dealing with the electronic equivalent of the printed text, which is a very poor way of making use of the opportunities of electronic publishing. The full power of an electronic journal with seamless links to other information and with the integration of multimedia tools is hardly being used yet. Innovations in this respect can be foreseen and will inevitably have their impact on the information provision to the end-users and on the future of the scholarly and scientific journal. It will also create a new relationship between what can be read on paper and viewed on a screen.

## **EXPERIENCES AT TILBURG UNIVERSITY**

On December 15th 1993, Tilburg University signed the first European license agreement with Elsevier Science. In 1995, electronic access to Elsevier journals could be offered campus-wide to staff and students of the university. Since then, the number of journals that could be offered in electronic form has shown only a modest increase. The current situation is as follows:

- 120 Elsevier Science journals (in subscription)
- 160 Elsevier Science journals on a pay-per-view basis (not in subscription)
- 43 Kluwer Academic journals
- 15 Kluwer Legal journals
- Economics journals as a part of Business Source Elite from EBSCO

Efforts to provide *local and integrated access* to a great number of journals from smaller and medium-sized publishers have not yet been successful. The licensing and access policy of Academic Press forced us not to continue an experimental license agreement.



Our first experiences with electronic subscriptions are following:

- It really takes time before the new services are discovered, accepted and integrated in the daily work and practice of the researcher: *innovation takes time*.
- Pro-active users appreciate this electronic access.
- The critical mass is far too limited. The current journals can only satisfy the interest of a small group of researchers. We recognize that the interest of our researchers is very diverse. The Elsevier and Kluwer titles can only meet the needs of some of them.
- Users complain about the time span between the availability of the printed journal in the library and the availability of the electronic files in the database. A regular time span of six weeks is discouraging the use.
- Technical problems, especially with printers and with legibility on the screen, are an impediment to full use.

Hans Roes will discuss these experiences in more depth in his paper “Measuring the use of paper and electronic journals”.

I will not discuss in detail the various options with respect to the storage of electronic files and the technical provisions that are needed in order to provide access to those titles. In other presentations these issues will be covered. I would only like to stress that Tilburg University has currently stored the electronic information locally and provides access through a local solution (Trix, as a result of the European project Decomate I). Basically, the place of storage should not be too important, but I would like to stress the importance of providing access to an excellent reference database with bibliographic information and abstracts, with pointers to the full-text that should be accessed in a seamless fashion. The place of storage should only be determined by performance and costs and by the role of the library with respect to perpetual access and digital preservation.

A variety of technical provisions for end-user access are being used worldwide:

- direct access to the central server of a publisher,
- central solutions offered by intermediaries (OCLC, Pica, Swets, etc.),
- package deals. An example is the combination of content with the offer of the Science Server software provided by Elsevier (implemented in Toronto, at Rank Xerox, in North Rhein Westfalia, and other sites),
- local solutions (Michigan, Tilburg University, London School of Economics, etc.).

The choice in favour of a local solution is not a necessary paradigm, but it enables us

- to provide access to information from various sources and from various publishers, in the same fashion,
- to integrate this information in our local infrastructure and to make seamless links with our reference databases,

- to control and manage the information in a proper way,
- to monitor the use of the information.

If the issues of storage, infrastructure and technical provisions can be properly solved, it is obvious that the licensing issue remains the most critical issue.

## VARIOUS LICENSE AGREEMENTS

The first license agreements between libraries and publishers on the electronic access to journals were bilateral agreements. Initiatives in the United Kingdom (National Site Licenses) and in the United States led to national and consortia agreements.

The advantages of a bilateral agreement are that:

- it is a tailor-made agreement,
- the focus is on the journals the library really needs,
- the agreement aims at integrating the information into the local infrastructure,
- it establishes a close relationship between the library and the publishers.

The disadvantages of a bilateral agreement are:

- it might be rather expensive,
- the library is in a weak position in the negotiations if it is not a front-runner,
- the library has to deal with many different publishers.

The advantages of national-site licenses and consortia agreements are:

- the libraries might obtain a stronger position in the negotiations,
- it should be possible to make better deals because it should be profitable for the publisher to make an agreement with a group of libraries,
- more journals can be made accessible for the consortium,
- libraries can share their expertise.

The disadvantages of these national and consortia agreements are:

- negotiating is a time consuming affair because all libraries are to agree to the mandate of the negotiator,
- it is difficult to share the costs in a proper way especially if the profiles of the members of the consortium are very different (An agricultural university, a university focussed on the social sciences and a technical university cannot build an effective consortium),
- libraries often have to pay for journals they do not need.



In various cases, these agreements were facilitated by a government or a funding council who provided additional funding.

A new model might be that instead of or in addition to national agreements of different types of libraries and libraries with different scopes and profiles, national or even international cooperation between libraries, based on specific disciplines, might become more important. Tilburg University will elaborate this model in the Decomate II project that focuses on cooperation of European libraries with respect to economics.

## **LIBRARIES AND LICENSES**

Libraries that want to offer electronic access to journal articles are currently facing a new phase in the “journals crisis”. They see that the electronic service will not reduce costs but will cause new financial constraints and lead to choices with respect to collection development. The library budgets are generally relatively stable. Price increases will usually lead to new cancellations of journal titles or to a reduction of the budget for books or other information sources. Extra charges for electronic files and non-cancellation clauses in license agreements create new dangers and new problems in collection development.

Although this situation is being recognized by all libraries all over the world, the position of libraries is generally very weak. There is a lack of organisation, due to the great diversity of the libraries and the effects of national borders and national policies. Another reason is that librarians fail to explain the situation to their users, who determine the content of the library, or that they are afraid to make unpopular decisions. Usually there is a gap between the expectations and demands of the users and the financial and managerial problems involved.

The publishers, on the other hand, act globally. They cross borders and offer basically the same license agreement in Toronto and in Bielefeld. They are still relying on their top editors being the best promoters of their journals and tenure still being very much dependent on regular publications in top journals.

It should be a logical step for libraries to improve their international contacts, to exchange experiences and to cooperate with each other on these critical issues. This would be a good starting point to respond to the global activities of the publishers.

## **LICENSING PRINCIPLES**

In the Summer of 1997, in collaboration with my German colleague, Elmar Mittler, I drafted a set of Licensing Principles, entitled “Guidelines and checklist for libraries”. These principles were accepted by the Dutch Academic libraries and a number of German libraries in October 1997 and subsequently published (<http://cwis.kub.nl/~dbi/cwis/licprinc.htm>). In these guidelines, the Dutch and German libraries define a common policy and formulate some general principles in order to meet the publishers’ strategy with respect to access to electronic journals and license agreements.

This initiative was warmly welcomed by many librarians and library organisations. It resulted in an international meeting in the Hague that was also attended by representatives from the American Consortium of Library Consortia and the British SCONUL and CURL libraries. It was decided to establish an International Coalition of Library Consortia (ICOLC). In April 1998, the "Statement of current Perspective and Preferred Practices for the Selection and Purchase of electronic Information" was edited by Alan Hirshon and published (<http://www.library.yale.edu/consortia/statement.html>). This statement was adopted by more than 40 library consortia in Australia, the United States, Canada, the United Kingdom, Israel, the Netherlands and Germany. Other consortia joined in later.

Important elements of this statement on preferred practices are:

- Libraries should have the option to purchase the electronic product without the paper subscription, and the electronic product should cost less than the printed subscription price.
- To meet the differing needs of consortia and their member libraries during this current period of experimentation, providers are strongly encouraged to offer multiple and flexible economic models.
- Electronic files should be available before, or no later than, the publication of the article in its printed format.
- The provider should grant the consortium and its member libraries a perpetual license when the consortium purchases the content.
- Consortia or libraries that wish to mount information locally should be allowed the option to do so on the system of their choice.
- Licenses should not limit the right of a library or a consortium to integrate the data into local system infrastructures and information services.
- Licenses should permit "fair use" of all information for non-commercial, educational, instructional, and scientific purposes by authorized users, including unlimited viewing, downloading and printing in agreement with the provisions in current copyright practices as applicable in the country of origin.
- Providers should allow e-information (such as electronic copies of journal articles) to be used to generate copies (whether in print or electronic form) for non-commercial interlibrary loans between two academic libraries in support of their teaching, learning and research missions.
- Libraries should commit themselves to taking reasonable steps to prevent misuse or abuse by clients and to work with the providers as appropriate to stop abuse should it occur.
- Walk-in use by clients who are not formally affiliated with the institution should be included by the provider in the base contract as part of the permitted user group.
- Consortia and their libraries must be allowed to share basic management information about the provider's product.
- The anonymity of individual users and the confidentiality of their searches must be fully protected.



## NEW DEVELOPMENTS WITH RESPECT TO LICENSES

In the Netherlands a discussion was started in the Spring of 1998 between representatives of the universities and the Dutch publishers (including Elsevier Science and Kluwer Academic) with respect to the Dutch Licensing Principles. As a result, a covenant was signed between the Scientific and Professional Publishers of the Dutch Publishers Association and the Innovation Scientific Information Supply Organisation, representing the Dutch universities (<http://www.surfbureau.nl/iwicovenant.htm>). Important elements of this agreement are the following:

- authorised users should have wide-ranging and unrestricted access to information,
- publishers accept the walk-in use of electronic files by clients who are not formally affiliated with the university,
- the universities will not permit external users outside the library to have access to the electronic information provided by the commercial publishers,
- experimentation will start with respect to electronic document delivery (in the framework of Interlibrary Loan between Dutch universities) generated from the electronic files of the licensed journals.

In June 1998, Karen Hunter, Senior Vice-President of Elsevier Science, responded to the ICOLC statement and referred to the fact that the licensing principles of Dutch and German libraries “led to a series of constructive discussions in the Netherlands and the likelihood of agreement on new experimentation.” A detailed response was given to the various ICOLC issues. An important breakthrough was announced in Elsevier’s policy with respect to Inter-Library Loan in the electronic environment. In their new ILL policy Elsevier permits the use of licensed electronic files as a source for printing copies to be sent to other non-commercial libraries. Electronic delivery is not (yet) included in this new policy.

I think that this is a positive development. Libraries are coming together and defining their common goals with respect to one of the most important issues of the digital library. This approach seems to be effective. Publishers will have to recognize that the time of “doing business as usual” is over. It is up to the library community to show that library cooperation is not a paper tiger but can lead to actions and results that are profitable to our end-users.

## MAIN OBSTACLES TO MOVE FROM PAPER TO ELECTRONIC

I would like to identify six critical success factors that can or will be an obstacle to really moving successfully from the printed journal to electronic:

- the technical provisions and the infrastructure,
- the critical mass of the journals that are made available in electronic form,
- the electronic files can and should be available prior to the printed edition,
- the prices of (electronic) subscriptions,



- impediments for Inter-Library Loan,
- user acceptance.

If these problems are not solved by publishers and libraries we will be facing an increasing escapism by the more pro-active users and a greater focus on Internet publishing. With respect to ILL, it should be possible to find mutually acceptable solutions. Otherwise libraries will be very reluctant to have an electronic-only collection. With respect to the technical provisions, a convergence would be highly recommended between publishers' approaches, the use of common standards and the specific demands and needs of libraries and library consortia. If the critical mass improves and the speed of electronic publication is fully used by publishers, I'm sure that the user acceptance will improve dramatically. What remains then, is the pricing issue. It can be foreseen that libraries and end-users will become more critical about the added value of the traditional journals as we know them now and that libraries will become more aware of the cost-effectiveness of journal subscription and licenses in view of the real use of journal articles. License management in conjunction with collection development and regular monitoring of use will be essential activities in the digital library of the future.

## **RECOMMENDED LIBRARY STRATEGY**

On the basis of the experiences of the last few years I would like to give some recommendations to the (academic) libraries:

- Make your core journals available electronically through decent license agreements with publishers.
- Don't accept unreasonable price increases and have the courage to cancel if there is not a proper balance between quality, relevance, use and price.
- Support electronic publishing by the researchers of your own institution.
- Stimulate discussions on copyright within the academic institution or research organisation.

Other papers will deal with electronic publishing by researchers and with the copyright issue. I would like to refer to these contributions. It is essential that libraries should adapt such a combined strategy. To rely only on Internet publishing by academics would be foolish and would fail to take into account the current situation and the information needs of users. Only focussing on licenses would stabilize the current journal crisis and prevent libraries from finding more cost effective solutions that meet fundamental expectations of the digital library:

- improvement of speed,
- improvement of service,
- improvement of scholarly communication,
- and reduction of costs.

## **SOME CONCLUSIONS ON THE RELATIONSHIP BETWEEN LIBRARIES AND PUBLISHERS**

Finally, I would like to draw some general conclusions on the relationship between libraries and publishers:

- A balance is needed between the rights of the authors (publishers) and the larger public interest: the support of education, research and the provision of access to information.
- We should recognize that we all are in a transition period. We should be enabled to experiment with new services and new modes of electronic access and delivery. Cooperation between libraries and publishers and experiments in this field are needed.
- Libraries should foster cooperation on a national level and through consortia, preferably discipline-oriented.
- Open and integrated solutions for access to electronic journals are needed. Publishers who want to stick with closed solutions should be sidetracked.
- Consortia activities should lead to practical results and to better deals for libraries. Libraries must be prepared to take the obvious conclusions from unrealistic policies of protective publishers.